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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,932	08/29/2001	Tamichi Otsu	100809-16277 (SCEY 18.963	8950

26304 7590 05/29/2007

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EXAMINER	
DOAN, DUYEN MY	
ART UNIT	**PAPER NUMBER**
2152	

MAIL DATE	DELIVERY MODE
05/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/942,932	OTSU, TAMICHI	
	Examiner	Art Unit	
	Duyen M. Doan	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 17-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 17-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to the submission filed on 4/10/2007. Claims 1-8,17-32 are amended for examination. Claims 9-16 are cancelled.

Response to Arguments

Applicant's arguments filed 4/10/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine Gargeya to Tedesco, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, by giving the wait time to the client would reduce frustration for the client.

In response to applicant's argument that there is no suggestion to combine Yu to the combination of Gargeya-Tedesco, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yu reference teaches the jukebox located at the server and the server uses the content in the jukebox to transmit content to the client (see Yu col.4, lines 15-23) for the purpose of reducing the travel time and cost for the client. The client can just be anywhere and request for the content to a remote server jukebox.

In response to applicant's argument that the cited reference does not teach "distribution of content through a network", "distribution schedule time", Examiner disagrees, Yu teach delivering content from a server to client over a network "see Yu col.4, lines 15-18). In light of applicant's specification the "distribution schedule time " is just the wait time that the client have to wait until the client is receiving the service. Gargeya teaches estimating the wait time before the client receives the service. Gargeya further discloses a list of factors that may be used to estimating the wait time (see Gargeya col.5, lines 10-67). In this section, Gargeya discloses factors such as call length, traffic, arrival rate (data speed), and numbers of request in the queue etc.

In response to applicant's argument that Tedesco does not teach "data communication speed", however, in the body of the office action (see page 4), examiner admitted that Tedesco does not teach the above limitation, instead, Gargeya teaches this limitation.

In response to applicant's challenges against the well-known rejection on claims 8,24,32, Examiner cited Zenith (us pat 7,036,083) and Kusuda et al (us pat 6,567,848) to support for the well-known rejection. Both of these arts disclose implementing the chat concept in a communication network.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 6,17-19,22,25-27,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco et al (us pat 6,430,537) (hereinafter Ted) in view of Gargeya et al (us pat 6,714,643) (hereinafter Gar) and further in view of Yu (us pat 5,561,456).

As regarding claim 1, Ted sending information from a server machine to a client terminal device whenever a distribution request is sent by a user via such client terminal device (see Ted col.2, lines 24-63; col.3, lines 25-67; col.5, lines 36-55; col.6, lines 67, the client make request for media, the information will be send back to the client), the distribution request expressing request for distributing content to such client terminal device via a network the information expressing at least a total number of other users assessed sent the distribution request earlier than the user, an order in a queue of the user in relation to such total number of other users at a point of time when the distribution request is sent by the user (see Ted col.2, lines 24-63; col.3,, lines 25-67; col.5, lines 36-55; col.6, lines 67, the queue information will display on the jukebox device for the client, the queue information include the number of requester, the queue position regarding the request, the total playtime for all the content in the queue) and displaying on the client terminal device the received total number of other users, and the order in the queue of the user in relation to such total number of other users in text or graphic (see Ted col.2, lines 24-63; col.3,, lines 25-67; col.5, lines 36-55; col.6, lines 67); the total number of other users sent the distribution request earlier than the user, data size of the content (see Ted col.5, lines 36-55; col.6, lines 5-26).

Ted does not expressly disclose the distribution schedule including a distribution schedule time expressing a time to start sending the content to *such* client terminal device of the user data-communications speed of the network; information received from a sever machine.

Gar teaches the wait time is calculated based several factors including the traffic in the network (see Gar col.5, lines 10-67; col.6, liens 41-62, the wait time in a call distribution queue, this wait time is calculated base on the queue position of the request, queue length, traffic, priority etc...).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the wait time, data-communications speed of the network with Ted, because by given the wait time to the client, it would reduce frustration that may cause the client having to wait in the queue without knowing how long he has to wait.

The combination of Ted and Gar does not disclose sending the content to such client terminal device of user, information received from a server machine.

Yu teaches sending the content to such client terminal device of user (see Yu col.4, lines 15-23, transmitting audio data to client from jukebox), information received from a server machine (see Yu col.4, lines 15-23, transmitting audio data to client from jukebox which located on a server)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Yu to the method of Ted-Gar to send content to client terminal device, because by sending content to client terminal device it would reduce the travel time and travel cost for the client.

As regarding claim 2, Ted-Gar-Yu discloses incrementing the order in the queue of the user each time a predetermined processing is completed for one of other

users, and sending to the client terminal device information expressing a new total number of other users and an incremented order in the queue of the user in relation to such new total number of other users whenever the increment occurred (see Ted col.2, lines 24-63; col.3, lines 25-67; col.5, lines 36-55; col.6, lines 67, update the queue, incrementing the queue); and displaying on the client terminal device the received new total number and the incremented order in the queue of the user in relation to such new total number in a graphical or text style to thereby update the display (see Ted col.2, lines 24-63; col.3,, lines 25-67; col.5, lines 36-55; col.6, lines 67).

As regarding claim 3, Ted-Gar-Yu discloses displaying on the client terminal device the order in the queue of the user in relation to the total number of other users in a specific display mode (see Ted col.2, lines 24-63; col.3, lines 25-67; col.5, lines 36-55; col.6, lines 67).

As regarding claim 6, Ted-Gar-Yu discloses sending from the server machine to the client terminal device termination time information for expressing a termination time of the waiting (see Ted col.2, lines 24-63; col.3, lines 25-67; col.5, lines 36-55; col.6, lines 67); executing on the client terminal device a responding processing to the server machine in order to issue a send request for target information within a predetermined time period from a termination time specified by the termination time information received from the server machine(see Ted col.2, lines 24-63; col.3,, lines 25-67; col.5, lines 36-55; col.6, lines 67); and executing on the server machine a wait

termination processing for sending the target information to the client terminal device when the send request was issued by the client terminal device within a predetermined time period from a termination time specified by the terminal time information sent to the client terminal device (see Ted col.2, lines 24-63; col.3,, lines 25-67; col.5, lines 36-55; col.6, lines 67).

As regarding claim 17-19,22 the limitations are similar to claim 1-3,6, therefore rejected for the same rationale as claim 1-3,6.

As regarding claim 25-27,30 the limitations are similar to claim 1-3,6, therefore rejected for the same rationale as claim 1-3,6.

Claims 4,20,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco and Gargeya in view of Yu as applied to claims 1,9,17,25 above and further in view of Gonzales (us pat 6,725,278).

As regarding claim 4 Ted-Gar-Yu discloses the invention substantially as claimed in claim 1, but does not disclose sending current time information expressing current time counted on the server machine to the client terminal device; correcting on the client terminal device time difference so as to agree a current time counted on the client terminal device with the current time counted on the server machine based on the current time information received from such server machine; executing a predetermined

process on the server machine based on the current time counted thereon; and executing another predetermined process on the client terminal device in synchronization with the server machine based on the current time counted while being corrected for the time difference.

Gonzalez teaches sending current time information expressing current time counted on the server machine to the client terminal device (col.3, lines 10-67); correcting on the client terminal device time difference so as to agree a current time counted on the client terminal device with the current time counted on the server machine based on the current time information received from such server machine (col.3, lines 10-67); executing a predetermined process on the server machine based on the current time counted thereon (col.3, lines 10-67); and executing another predetermined process on the client terminal device in synchronization with the server machine based on the current time counted while being corrected for the time difference (col.3, lines 10-67).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Gonzalez to the method of Ted-Gar-Yu to synchronize the client with the server, because by synchronize the clients with the server would help in maintaining the consistency and clock accuracy between the client and the server after synchronizing (see Gonzalez col.1, lines 18-24).

As regarding claims 20,28, the limitations are similar to claim 4, therefore rejected for the same rationales as claim 4.

Claims 5,7,21,23,29,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco and Gargeya in view of Yu as applied to claims 1,9,17,25 above and further in view of Dowling (us pat 6,845,361).

As regarding claim 5, Ted-Gar-Yu discloses the invention substantially as claimed in claim 1, but does not disclose sending from the server machine to the client terminal device roll-call time information used for roll-call processing responsible for confirming a will of staying in the queue; executing on the server machine the roll-call processing for confirming a will of staying in the queue of the user based on the roll-call time information sent to the client terminal device; and executing on the client terminal device a responding processing for expressing the will of staying in the queue to the server machine based on the roll-call time information received from the server machine.

Dowling teaches sending from the server machine to the client terminal device roll-call time information used for roll-call processing responsible for confirming a will of staying in the queue (see Dowling col.7, lines 1-58; col.8, lines 1-34; col.10, lines 38-54; col.11, lines 46-52; col.12, lines 1-34, notify the user that the wait time is up and the user would like to stay in the queue); executing on the server machine the roll-call processing for confirming a will of staying in the queue of the user based on the roll-call time information sent to the client terminal device (see Dowling col.7, lines 1-58; col.8, lines 1-34; col.10, lines 38-54; col.11, lines 46-52; col.12, lines 1-34, notify the user that

the wait time is up and the user would like to stay in the queue); and executing on the client terminal device a responding processing for expressing the will of staying in the queue to the server machine based on the roll-call time information received from the server machine (see Dowling col.7, lines 1-58; col.8, lines 1-34; col.10, lines 38-54; col.11, lines 46-52; col.12, lines 1-34, notify the user that the wait time is up and the user would like to stay in the queue).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Gonzalez to the method of Ted-Gar-Yu to confirm the will to stay in the queue from the client, because by confirm the will to stay in the queue from the client would be benefit in calculating the accurate wait time for the clients that are currently in the queue.

As regarding claim 7, Ted-Gar-Yu discloses the invention substantially as claimed in claim 1, but does not disclose deleting a right for the waiting when the responding processing was not executed.

Dowling discloses deleting a right for the waiting when the responding processing was not executed (see Dowling col.5, lines 25-26; col.7, lines 1-58; col.8, lines 1-34; col.10, lines 38-54; col.11, lines 46-52; col.12, lines 1-34). The same motivation was utilized in claim 5 applied equally well to claim 7.

As regarding claims 21,23, the limitations are similar to claim 5,7, therefore rejected for the same rationale as claims 5,7.

As regarding claims 29,31, the limitations are similar to claim 5,7, therefore rejected for the same rationale as claims 5,7.

Claims 8,24,32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco and Gargeya in view of Yu as applied to claims 1,9,17,25 above and further in view of what was well known in the art.

As regarding claims 8,24,32, Ted-Gar-Yu disclose the invention substantially as rejected in claims 1,17,25 above, but does not explicitly disclose displaying advertisement or a chat space on the client computer.

Official Notice is taken (see MPEP 2144.03) that displaying advertisement or a chat space on the client computer is well know at the time the invention was made.

It would have been obvious to one of ordinary skill in the art to include displaying the advertisement or a chat space on the client computer to the system of Ted and Gar, because by doing this, it would prevent the client from getting bore while waiting in the queue.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner
Duyen Doan
Art unit 2152

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER
5/24/07